

## SOIL CONSERVATION DIVISION[27]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 161A.4(1) and 161C.2(4), the Division of Soil Conservation hereby gives Notice of Intended Action to amend Chapter 10, “Iowa Financial Incentive Program for Soil Erosion Control,” and Chapter 12, “Water Protection Practices—Water Protection Fund,” Iowa Administrative Code.

The amendments update allocation factors for individual counties for initial distribution of soil conservation funding. The amendments allow additional funding to be used to protect public lakes and would set September 1 as the date to recall unobligated funding. Soil and water conservation districts would be required to review the priority ranking system annually and to share the information electronically with IDALS. The amendments would also allow funding for water protection practices to be used in combination with other public funds. Additional flexibility would be granted by expanding the list of eligible practices and adjusting some of the eligibility criteria.

Any interested persons may make written suggestions or comments on the proposed amendments on or before April 10, 2013. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to [Margaret.Thomson@IowaAgriculture.gov](mailto:Margaret.Thomson@IowaAgriculture.gov).

A public hearing will be held on April 9, 2013, at 1:30 p.m. in the Second Floor Conference Room, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa.

These proposed amendments are subject to the Division’s general waiver provisions.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code section 161A.2 and Iowa Code chapter 161C.

The following amendments are proposed.

ITEM 1. Amend subrules 10.41(2) and 10.41(3) as follows:

**10.41(2)** Publicly owned lakes. For the approved cost of permanent soil conservation practices on watersheds above publicly owned lakes, a minimum of 5 percent of the amount appropriated is to be set aside for cost sharing at a rate not to exceed 75 percent.

**10.41(3)** Mandatory program. ~~Five~~ A maximum of 5 percent of the appropriation shall be set aside for cost sharing with landowners or farm operators who are required to install soil erosion control practices as a result of an administrative order from the district to abate complaints filed under Iowa Code section 161A.47.

ITEM 2. Rescind subrules **10.41(8)** and **10.41(9)**.

ITEM 3. Amend paragraph **10.51(1)“e”** as follows:

e. The following table provides the value of “w” for each district:

Individual Soil and Water Conservation District

### Percentage Allocation Factors

<u>W(%) District</u>	<u>W(%) District</u>	<u>W(%) District</u>	<u>W(%) District</u>
<del>1.8</del> <u>1.7</u> Adair	1.2 Davis	1.0 Jefferson	0.2 Pocahontas*
<del>1.2</del> <u>1.1</u> Adams	<del>1.3</del> <u>1.4</u> Decatur	<del>1.1</del> <u>1.2</u> Johnson	<del>0.7</del> <u>0.8</u> Polk
1.5 Allamakee	0.8 Delaware	1.2 Jones	1.4 E. Pottawattamie
1.1 Appanoose	<del>0.6</del> <u>0.5</u> Des Moines	1.4 Keokuk	1.2 W. Pottawattamie
<del>1.4</del> <u>1.3</u> Audubon	0.4 Dickinson	<del>0.6</del> <u>0.5</u> Kossuth	<del>1.5</del> <u>1.6</u> Poweshiek
<del>1.4</del> <u>1.2</u> Benton	<del>1.9</del> <u>1.8</u> Dubuque	1.0 Lee	1.6 Ringgold
<del>0.5</del> <u>0.3</u> Black Hawk*	<del>0.3</del> <u>0.4</u> Emmet*	<del>1.1</del> <u>1.0</u> Linn	0.7 Sac
<del>0.5</del> <u>0.6</u> Boone	1.1 Fayette	0.5 Louisa	<del>0.9</del> <u>0.8</u> Scott
0.3 Bremer*	0.3 Floyd*	1.1 Lucas	<del>1.7</del> <u>1.8</u> Shelby
<del>0.4</del> <u>0.3</u> Buchanan*	0.6 Franklin	<del>0.8</del> <u>0.9</u> Lyon	1.0 Sioux
<del>0.4</del> <u>0.5</u> Buena Vista	1.0 Fremont	1.2 Madison	0.6 Story
0.6 Butler	<del>0.4</del> <u>0.5</u> Greene	1.2 Mahaska	1.5 Tama
0.3 Calhoun*	0.5 Grundy	1.3 Marion	1.7 Taylor
1.2 Carroll	1.5 Guthrie	<del>1.4</del> <u>1.5</u> Marshall	1.1 Union
1.5 Cass	0.4 Hamilton	<del>1.0</del> <u>1.1</u> Mills	1.2 Van Buren
1.2 Cedar	<del>0.3</del> <u>0.4</u> Hancock*	<del>0.3</del> <u>0.2</u> Mitchell*	1.0 Wapello
<del>0.5</del> <u>0.4</u> Cerro Gordo	0.7 Hardin	<del>1.2</del> <u>1.3</u> Monona	<del>1.1</del> <u>1.2</u> Warren
1.0 Cherokee	<del>1.6</del> <u>1.7</u> Harrison	1.0 Monroe	1.1 Washington
0.4 Chickasaw	0.9 Henry	1.2 Montgomery	1.4 Wayne
1.2 Clarke	0.4 Howard	<del>0.6</del> <u>0.5</u> Muscatine	0.3 Webster*
<del>0.3</del> <u>0.4</u> Clay*	0.2 Humboldt*	<del>0.4</del> <u>0.5</u> O'Brien	0.5 Winnebago
2.0 Clayton	1.3 Ida	0.3 Osceola*	<del>1.8</del> <u>2.0</u> Winneshiek
1.2 Clinton	1.4 Iowa	1.5 Page	<del>2.3</del> <u>2.2</u> Woodbury
<del>2.4</del> <u>2.5</u> Crawford	<del>1.6</del> <u>1.7</u> Jackson	0.4 Palo Alto	<del>0.3</del> <u>0.2</u> Worth*
0.8 Dallas	<del>1.7</del> <u>1.8</u> Jasper	2.4 Plymouth	0.4 Wright

\*The minimum value to be used in determining original allocations to districts shall be 0.4.

ITEM 4. Amend subrule 10.52(2) as follows:

**10.52(2) Recall of unobligated funds.** Funds that are allocated to districts under this program and are not obligated ~~within three months~~ by September 1 shall be recalled by the division and reallocated.

ITEM 5. Amend rule 27—10.60(161A), introductory paragraph, as follows:

**27—10.60(161A) Funding rates.** The purpose of this division is to establish the funding rates at which the state will fund or share the cost for approved soil conservation practices under the various incentive programs. In all cases, except for the mandatory program, the state's share will be computed using the percentages specified below and the estimated cost, the amended estimated cost, or the actual cost of implementing the practice, whichever is less. Payments under the mandatory program will be based on actual costs. Funds distributed to annual programs for permanent practices may be used in combination with other public funds as long as the maximum cost-share rate realized by the district cooperator does not exceed 75 percent of the total eligible costs.

ITEM 6. Amend subrule 10.73(6) as follows:

**10.73(6) District priorities.** Each application for financial incentives shall be evaluated under the priority system adopted by the district for disbursement of allocated funds. The district priority system shall be reviewed annually by the district. The priority system shall be sent electronically to the division for the division's record after the annual review. The priority system shall give consideration to

~~family-operated farms and the public benefit derived. The priority system adopted by the district shall be made available for review at the district office. In establishing its priorities for funds made available beginning July 1, 1983, the district shall also give consideration to the district cooperator's effort to implement Iowa Soil 2000 program requirements.~~

ITEM 7. Amend rule 27—12.50(161C) as follows:

**27—12.50(161C) Water protection practices account.** This part defines procedures for allocation, recall and reallocation of water protection practices funds to soil and water conservation districts and to the division's reserve fund. ~~These funds shall not be used alone or in combination with other public funds to provide a financial incentive payment greater than 75 percent of the approved cost for practices listed in 12.84(161C), or 50 percent in 12.77(1), 12.77(2) and 12.77(3).~~

ITEM 8. Amend subrule 12.51(2) as follows:

**12.51(2) Recall of funds.** Any funds allocated in the current fiscal year that the districts have not spent or obligated by June 30 ~~may~~ shall be recalled by the division.

ITEM 9. Amend paragraph **12.63(3)“b”** as follows:

*b.* Privately owned land not used for agricultural production shall not qualify for water protection practices funds. Windbreaks, streambank and shoreline protection, and stormwater quality best management practices established on privately owned land are eligible whether or not the land is in agricultural production.

ITEM 10. Amend subrule 12.72(5) as follows:

**12.72(5) Pasture and hay planting.** The practice must include the conversion of land from row crop production to a permanent vegetative cover to control excessive water erosion.

ITEM 11. Adopt the following **new** subrule 12.72(9):

**12.72(9) Stormwater quality best management practices (BMPs).** A technique, measure, or structural control that is used for a given set of conditions to manage the quantity and improve the quality of stormwater runoff in the most cost-effective manner. BMPs can be either:

*a.* Nonstructural BMPs, which include a range of pollution prevention, education, or institutional management and development practices designed to limit the conversion of rainfall to runoff and to prevent pollutants from entering runoff at the source of runoff generation; or

*b.* Structural BMPs, which are engineered and constructed systems that are used to treat the stormwater at either the point of generation or the point of discharge to either the storm sewer system or to receiving waters (e.g., detention ponds or constructed wetlands).

ITEM 12. Rescind subrule **12.73(7)**.

ITEM 13. Amend rule 27—12.77(161C), introductory paragraph, as follows:

**27—12.77(161C) Cost-share rates.** The following cost-share rates shall apply for eligible practices designated in rules 27—12.72(161C) to 27—12.74(161C). These rates represent the maximum allowable cost-share provided by state funds. These rates may be used in combination with other public funds to provide a total cost-share rate not to exceed 75 percent of the lesser of the eligible or the estimated cost of installation.